

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**THE MARSHALL COUNTY COAL COMPANY, THE
MARION COUNTY COAL COMPANY, THE
MONONGALIA COUNTY COAL COMPANY, THE
HARRISON COUNTY COAL COMPANY, THE OHIO
COUNTY COAL COMPANY, MURRAY ENERGY
CORPORATION, and ROBERT E. MURRAY,**

Plaintiffs,

v.

**JOHN OLIVER, CHARLES WILSON, PARTIALLY
IMPORTANT PRODUCTIONS, LLC, HOME BOX
OFFICE, INC., TIME WARNER, INC., and DOES 1
through 10,**

Defendants.

Civil Action No.: 5:17-CV-99

Judge John Preston Bailey

CIVIL ACTION NO. 17-C-
124

Judge Cramer
(Marshall County Circuit
Court)

PLAINTIFFS' MOTION TO REMAND

Plaintiffs, by counsel, move to remand this civil action back to the Circuit Court of Marshall County, West Virginia pursuant to 28 U.S.C. §1447. As more fully presented in the accompanying memorandum of law in support of the motion to remand, no diversity exists between the parties, and the action was not properly removed to this court. Plaintiffs would further request that any order remanding this action require payment of just costs and expenses, including attorney fees, incurred as a result of the removal pursuant to 28 U.S.C. §1447(c).

Wherefore, plaintiffs request that their motion to remand be granted.

Dated: July 7, 2017

Respectfully submitted,

/s/ David L. Delk Jr.

Of Counsel for Plaintiff

Jeffrey A. Grove, Esq. (#6065)
David L. Delk, Jr., Esq. (#6883)
GROVE, HOLMSTRAND & DELK, PLLC
44 1/2 15th Street
Wheeling, WV 26003
(304) 905-1961
(304) 905-8628 (facsimile)

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**THE MARSHALL COUNTY COAL COMPANY, THE
MARION COUNTY COAL COMPANY, THE
MONONGALIA COUNTY COAL COMPANY, THE
HARRISON COUNTY COAL COMPANY, THE OHIO
COUNTY COAL COMPANY, MURRAY ENERGY
CORPORATION, and ROBERT E. MURRAY,**

Plaintiffs,

v.

**JOHN OLIVER, CHARLES WILSON, PARTIALLY
IMPORTANT PRODUCTIONS, LLC, HOME BOX
OFFICE, INC., TIME WARNER, INC., and DOES 1
through 10,**

Defendants.

Civil Action No.: 5:17-CV-99

Judge John Preston Bailey

CIVIL ACTION NO. 17-C-
124

Judge Cramer
(Marshall County Circuit
Court)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Service of the foregoing **PLAINTIFFS'**
MOTION TO REMAND was electronically filed with the Clerk of this Court on the 7th
day of July, 2017, by using the CM/ECF system who shall provide electronic notice of
such filing to the following:

Robert P. Fitzsimmons, Esq.
W. Va. State Bar I.D. #1212
Clayton J. Fitzsimmons, Esq.
W. Va. State Bar I.D. #10823
FITZSIMMONS LAW FIRM, PLLC
1609 Warwood Avenue
Wheeling, WV 26003
(Counsel for Home Box Office, Inc.)

_____/s/ David L. Delk, Jr.
Of Counsel for Plaintiffs

Jeffrey A. Grove, Esq. (#6065)
David L. Delk, Jr., Esq. (#6883)
GROVE, HOLMSTRAND & DELK, PLLC
44 1/2 15th Street
Wheeling, WV 26003
(304) 905-1961 / (304) 905-8628 (facsimile)